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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/289,580	04/12/1999	KAZUHISA MURATA	6141963	8807

21171 7590 04/09/2003

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WASHINGTON, DC 20001

EXAMINER

PAYNE, DAVID C

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/289,580

Applicant(s)

MURATA, KAZUHISA

Examiner

David C. Payne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 9-11, 21, 22, 24, 25, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 23, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. Examiner contacted H.J. Staas' office on April 2, 2003 in an unsuccessful attempt to discuss the restriction. As such, the examiner appreciates the applicant's table detailing the species and the acknowledgment of corresponding claims. In accordance with 35 U.S.C 121, applicant is entitled to the prosecution on the merits of a single disclosed species. Species 1 (claims 1, and 21-27) which were elected by the applicant in the paper filed August 16, 2002 is reviewed herein.

### ***Drawings***

2. Examiner appreciates the fax copy of the formal drawings that were transmitted for review of the case, given that the formal drawings filed on 23 January 2003 were not found in the case. Applicant is advised to resubmit a copy of the formal drawings so that they may be included in the case.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 23 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards

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as the invention.

5. Claims 23 and 26 both recite the limitation "said first predetermined number of error corrected data" and "said second number of error correction bits" in last clause. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. US 6,313,932 B1 (Roberts) in view of Alexander et al. US 5,784,184 (Alexander).

An optical transmission system comprising a transmitting end optical transmission device, a receiving end optical transmission device,

the transmitting end optical transmission device comprising:

the transmitted wavelength multiplexed optical signals (**figure 1 (2)**) comprise a first predetermined number of data contained on a corresponding number of channels ( $n_m$ ) having added thereto a second predetermined number of error correction bits ( $N$ ) and both thereof converted to different wavelengths (e.g., col./lines: 5/40-65)

Roberts disclosed a splitting and combining means rather than a multiplexing/demultiplexing means that sends signals through free space rather than fiber. Alexander disclosed a multiplexing/demultiplexing means (**figure 1 (mux, demux)**) with a FEC (**figure 2 (45)**) that

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operates via fiber (**figure 1 (70))**). It would have been obvious to one of ordinary skill in the art at the time of invention use a separate error encoder across each channel (as in Alexander) or one error coder over all the channels as in Roberts, such that it would be obvious to substitute multiplexing for combining signals and sending signals via fiber vs. free space. The encoding mechanism can be greatly simplified by operating over one channel than over all WDM channels at once and fiber communications is well known to provide a less noisy medium of transmission than free space.

***Allowable Subject Matter***

8. Claims 1-3, 5, 9-11, 21, 22, 24, 25, 28 and 29 are allowed. Claims 1-3, 5, and 9-11 were considered allowable and within the species of claims 21-27.

***Response to Arguments***

9. Applicant's argument regarding the method of error correction of Roberts and Alexander as it differs from applicant is not found persuasive.
10. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "error correction bits are transmitted ... without forming a frame") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (703) 306-0004. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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dcp

April 6, 2003



JASON CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600